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STATE OF CALIFORNIA

Energy Resources Conservation And Development Commission

In the Matter of:) Docket No. 01-AFC-1
)
APPLICATION FOR CERTIFICATION) APPLICANT'S STATUS REPORT,
FOR THE FPL ENERGY SACRAMENTO) NUMBER 3
POWER, LLC RIO LINDA/ELVERTA)
POWER PROJECT (RIO LINDA))
_____)

The Rio Linda/Elverta Power Project Committee's June 5, 2001 **Committee Scheduling Order** directed parties to file a status report on September 1, 2001. Because September 1, 2001, was a Saturday, CEC attorney Caryn Holmes authorized the Applicant to file this report on September 4, 2001. The following is the Applicant's progress since the filing of Applicant's Status Report, Number 2.

Data Requests

CEC staff issued a second round of data requests (numbered 92-234) and Applicant received them electronically on August 29, 2001. Applicant is preparing

responses. As indicated in the proposed schedule, below, Applicant will submit the Supplement on October 1, 2001, and therefore proposes a deadline of October 8 for the responses to the Second Set of Data Requests. This additional week for preparation of Data Responses will allow the responses to reference or incorporate the material submitted in the Supplement.

Sacramento County Hearings

On August 14 and 21, 2001, Applicant participated in two meetings of the Rio Linda/Elverta Community Planning Advisory Council (CPAC) concerning the Rio Linda/Elverta Power Plant. At these meetings, Applicant provided information about the project, listened to public comment, and discussed the project with the CPAC. Notwithstanding prior written opinions by the County Planning Department and County Counsel that the RLEPP is consistent with County land use requirements, the CPAC voted to recommend to the County Board of Supervisors that the RLEPP is inconsistent. On August 29, 2001, Applicant attended the meeting of the Sacramento County Board of Supervisors. The Board of Supervisors was asked to make a final determination as to whether the proposed power plant is consistent with the General Plan, Community Plan, current zoning and a prior zoning approval. Prior to the meeting, County staff prepared a written staff report recommending the Board find the project consistent, and authorize a County response team to participate in the CEC process to ensure that the project remains consistent. County staff observed that some policies contained in the County's General Plan and the Rio Linda/Elverta Community Plan are essentially performance standards, and CEC Conditions of Certification could be used to ensure ongoing compliance.

At the County Board of Supervisors meeting, the Board was uncertain as to the scope of the decision needed for the CEC process. The Board appeared prepared to make decisions on the questions of consistency of the project with the zoning and the

zoning agreement in place at the site, as well as the various land use designations in the General Plan and Community Plan. However, the plans include literally hundreds of additional detailed policies, many involving environmental issues that will be the subject of evidentiary proceedings in the course of the CEC licensing process. The Board was uncertain whether the CEC staff was asking it to render a consistency decision on these hundreds of policies. The Chairman of the Board observed that the County's plans are not unique, and yet for other proposed power plants the CEC does not ordinarily ask the elected officials of a local city or county to convene a hearing and render a decision of consistency with the hundreds of general plan or community plan policies. The Board expressed confusion as to whether the CEC staff appeared to be asking for something additional with respect to the RLEPP, and then asked the CEC staff present to clarify precisely what the CEC staff needs from the County at this time. The Board requested Planning Department staff to work with CEC staff to clarify the scope and timing of Board decisions and to continue the matter until October 3, 2001.

Planned Workshops

Staff has advised the applicant that a workshop will be scheduled for September 11 and 12, 2001. The workshop will be a combination of an issues workshop on water issues, and a workshop to discuss the second round of data requests.

Supplement

On August 3, 2001, Applicant submitted Applicant's Proposed Revision to Committee Scheduling Order. Applicant proposed to revise the current scheduling order for the RLEPP in order to submit a Supplement to the AFC on October 1, 2001. Applicant took this proactive step in order to provide time for it to propose project changes to better address potentially significant impacts. At the Data Response

Workshop for requests 1 through 91, CEC staff requested that the information regarding plume abatement and related changes in the cooling tower design, plot plan and project impacts be included in a Supplement to the AFC. In addition, concerns were raised at the workshop regarding visual impacts relating to the turbine hall, noise impacts at certain residences, and water supply. Response to these issues may also require changes in the design of the proposed project. Further, the Western Area Power Administration has expressed a preference for an interconnection configuration that was presented as an alternative in the original AFC. Therefore, additional information regarding this alternative will be included in the Supplement as well. Currently, Applicant is on schedule to provide the Supplement to the CEC on October 1, 2001.

Status Conference

Below are brief responses to the issues raised in the Notice of the Status Conference. Applicant will be prepared to discuss these in greater detail at the status conference.

1. Biological resources to include:
 - a. The status of biological survey information that Staff has requested.

Response: *In the second set of data requests, staff has included a number of requests on biological resources. Applicant is preparing responses to those requests and will submit this information with its data responses on October 8.*

- b. Whether Applicant has determined if proposed groundwater consumption will decrease Sacramento and American River

flows, and if so, how will any adverse impact to endangered and sensitive species be mitigated.

Response: *Applicant has reviewed documents prepared by a number of water agencies and joint efforts by water agencies in the Sacramento area, and spoken with its consultants about the proposed use of groundwater. At this time, Applicant has no information that its use of groundwater for the project will decrease the flows of either river or in any way impact endangered or sensitive species. Applicant expects that these issues will be discussed further at the workshop on September 11-12, 2001.*

2. Facility design to include:
 - a. The status of any negotiations with Western Area Power Administration (Western) over any alternative transmission interconnections; and

Response: *Applicant continues to work with Western on interconnection alternatives and has agreed with Western that the preferred option will be to tie the Project directly into Western's Elverta Substation with a short double circuit 230kV line. This is preferred as to both cost and environmental impact, due to Western's recent efforts in developing an innovative, low-impact approach to expansion of its Elverta Substation to accommodate termination of the lines from the Project. This alternative will be presented in Applicant's Supplement.*

- b. Applicant's design plans, which address potential flooding, drainage and emergency responses at the site.

Response: *As a result of changes in the local levy system and revised flood levels, the Plant site is not located in an area susceptible to flooding. The Flood Insurance Rate Map (Sacramento County Panel 55 of 705, revised July 6, 1998) prepared by the Federal Emergency Management Agency indicates a base 100-year flood level elevation of 31 feet above mean sea level (AMSL). The project facilities will be constructed at an elevation higher than 31 feet AMSL. Because the Plant is not in a flood plain area, design plans specifically addressing flooding, draining, or emergency responses have not been developed. The Project will be constructed in conformity with all applicable standards, ordinances, and laws. The Project is currently at the preliminary design stage and civil engineering has not been completed. As necessary, the Project design will include plans for a balanced cut and fill, in conjunction with a properly engineered drainage system to ensure that water runoff during heavy rains or flooding will not increase runoff to adjacent properties. The Applicant is engaged in a continuing dialogue with the local Fire Department concerning emergency responses at the site.*

3. Noise impacts to include:
 - a. Discussion of applicable significance criteria to be applied;
- and

Response: *The “Noise Element of the County of Sacramento General Plan,” amended June 1998 establishes noise limits for new non-transportation noise sources. The most restrictive noise level the plant would have to be designed to meet is the nighttime L50 limit of 45 dBA. Sacramento County also has a noise ordinance which is used to enforce noise levels and applies to levels over those specified in the Noise Element (55 dBA/day*

and 50 dBA/night) measured one foot within the residential property line. Applicant continues to research relevant noise thresholds.

- b. The current design features of the turbine hall and whether any significant visual impacts it presents may be appropriately mitigated.

Response: *In light of the heading above, Applicant assumes that the potential impact to be discussed here is noise and not visual. The purpose of the turbine hall is to reduce noise impacts from the turbines. Based on Staff's comments that the mass of the turbine hall could result in a significant visual impact, Applicant has redesigned the turbine hall. These changes will be presented in Applicant's Supplement. The modified design will continue to reduce potential noise impacts from the turbines.*

- 4. Visual impacts to include:
 - a. The current design plan configuration of the cooling tower.

Response: *Applicant submitted the new configuration in the supplemental responses to the first set of data requests. Applicant changed the cooling tower configuration in order to accommodate plume abatement as requested by CEC staff, to reduce potential visual impacts. This information will also be included in the Supplement submitted on October 1, 2001.*

- b. Whether the current design plan configuration of the turbine hall will raise any significant visual impacts, and, if so, how they can be appropriately mitigated.

Response: *At the Data Response Workshop for the First Set of Data Responses on July 17 and 18, 2001, CEC Staff commented that he might conclude that the mass of the turbine hall could result in a significant visual impact. Based on that comment, Applicant redesigned the turbine hall. The redesign is complete and will be presented in the Supplement submitted on October 1, 2001. In the redesigned turbine hall, Applicant has reduced the maximum height of the building from 80 feet to 40 feet. Applicant believes that the redesign addresses the issues raised at the Data Response Workshop, and that the turbine hall will not have significant visual impact.*

5. Water supply to include:
 - a. A discussion of Applicant's recent water workshop and whether Applicant has provided answers to all outstanding data requests.

Response: **Water Workshop:** *Applicant is pleased that the Water Workshop has been scheduled. Applicant has been informed by CEC staff that the water issues will be considered at the workshop to be held on September 11-12, 2001. The staff's Status Report #2, suggests that the Applicant delayed the scheduling of the Water Workshop. This merits a fuller explanation. On July 25, counsel for the Applicant was contacted by staff counsel for the CEC and asked to confirm availability for a water workshop on any of six dates: August 15, 16, 17, 20, 21 or 22. Within 24 hours, counsel for Applicant returned the call to CEC staff counsel responding to the six proposed dates. In the course of this conversation, however, Applicant's counsel was informed that a notice of the workshop was prepared and about to be signed setting the workshop for a completely*

different date, August 7, 2001. Unfortunately, Applicant could not attend on this particular day. Applicant confirmed its availability for any of the original 6 dates, and continued throughout August to request that the water workshop be set for the earliest possible date.

Data Requests: *Applicant has provided answers to all outstanding data requests. The Second Set of Data Requests include requests relating to water. Some of these are entirely new questions. Others follow up on prior data requests and responses. Applicant will provide responses to the second set of data requests in accordance with the schedule approved by the Committee at the Status Conference.*

- b. The proposed project's current plans for water supply.

Response: *Applicant is exploring alternative water sources and mitigation, and expects to discuss analytical methodologies, alternatives and mitigation at the water workshop. Thereafter, changes, if any, to the project's water supply will be discussed in the Supplement submitted on October 1, 2001.*

- c. The status of any agreements/negotiations with local water suppliers or their representatives on the scope of work to be performed by the parties and any proposed distribution of work and costs.

Response: *Applicant submitted its objections to Rio Linda/Elverta Community Water District's proposed reimbursement budget on August 3, 2001. CEC staff also submitted objections to the reimbursement budget. Applicant's objections invited the Water District*

to propose an alternative scope of work and proposed budget, but to Applicant's knowledge, the Water District has not done so.

- d. The status of any consultations with local authorities over the potential degradation of groundwater quality from migration of the McClellan AFB contamination plume as a consequence of construction and excavation activities.

Response: *Applicant continues to work with staff concerning selection of the appropriate analytical model for analysis of the potential migration of contaminants at McClellan AFB. While a study using the IGSM model was completed, staff has indicated that the IGSM model may not be appropriate for this analysis. This is among the issues to be addressed at the upcoming water workshop scheduled for September 11-12, 2001. Until the parties agree on an approach to this analysis, consultation with local authorities will be premature.*

- e. Whether Applicant's proposed groundwater consumption will decrease Sacramento and American River flows, and, if so, Applicant's proposed mitigation.

Response: *See Response to Item 1.b., above.*

Revised Schedule

At the September 7, 2001 Status Conference, Applicant will ask the Committee to adopt a proposed schedule for the Rio Linda/Elverta Power Plant Project. The schedule below is consistent with the schedule proposed by Applicant on August 3, 2001, but has been expanded to include those items requested by the Notice of the Status

Conference, as well as those mentioned by CEC Staff in Staff's Response to Applicant's Proposed Revision to Committee Scheduling Order.

Staff has suggested that work be suspended on the project until the Supplement and Responses to the Second Round of Data Requests are submitted. Staff also suggests that no schedule be set beyond the deadlines for those submissions. Applicant respectfully disagrees with Staff's proposals. First, the Supplement will be submitted only 3 weeks after the Status Conference, and Applicant proposes that the Responses to the Second Round of Data Requests be submitted only one week after the Supplement. This is a very brief period of time. Second, this project cannot advance without continued dialogue and input from the CEC staff. For example, Applicant has been eagerly awaiting the workshop on water issues, which we understand will now be a part of the workshop scheduled for September 11-12, 2001. Third, the supplement involves only a limited and discrete number of items which applicant has identified to staff. (By and large, these items are an effort to respond at the earliest stage of the process to aspects that staff itself said it might have considered significant as originally proposed.) The majority of the project will be unchanged by the Supplement. Thus, there appears to be no reason not to proceed with work on other aspects of this project and a suspension is not warranted. While Applicant is aware of and sympathetic to staff's workload, Applicant is concerned that a suspension as proposed by staff may have much broader impact on the schedule for this project.

PROPOSED SCHEDULE

Staff Issues Second Set of Data Requests	August 28
Applicant and Staff file Status Report #3	September 1
Status Conference	September 7
Applicant files Preliminary Determination of Compliance (PDOC) from the Sacramento Metropolitan Air Quality Management District (SMAQMD)	September 14
Water Workshop and Data Request Workshop on Second Set of Data Requests	September 11-12
Applicant files Supplement	October 1
Applicant and Staff file Status Report #4	October 1
Applicant files Responses to Second Set of Data Requests	October 8
Staff issues Third Set of Data Requests (if necessary) re Supplement	October 16
Workshop on Responses to Second Set of Data Responses	Week of October 22
Applicant and Staff file Status Report #5	November 1
Applicant files Responses to Third Set of Data Requests (if necessary)	November 6
Staff releases Preliminary Staff Assessment (PSA)	December 1
Applicant and Staff file Status Report #6	December 1
Western Area Power Administration files Draft Environmental Assessment (DEA)	December 1
Staff & Western conduct PSA/DEA workshops	Mid-late December
Applicant files Final Determination of Compliance (FDOC) from SMAQMD	Mid-late December
Applicant and Staff file Status Report # 7	January 2
Prehearing Conference Statement due to Committee	January 4
Committee conducts Prehearing Conference	Mid-January

Applicant looks forward to discussing the proposed schedule at the Status Conference on September 7, 2001.

DATED: September 4, 2001

Respectfully Submitted,

ORIGINAL SIGNED

Kathleen A. Kenealy
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FPL Energy Sacramento Power, LLC

STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:) Docket No. 01-AFC-1
)
Application for Certification for the) PROOF OF SERVICE
FPL Energy Sacramento Power, LLC)
RIO LINDA/ELVERTA POWER)
Project (RLEPP))

I, Heather Thai, declare that on September ____, 2001, I served a copy of the attached APPLICANT'S STATUS REPORT, NUMBER 3 electronically and by Federal Express by depositing such envelope in a facility regularly maintained by Federal Express with delivery fees fully provided for or delivered the envelope to a courier or driver of Federal Express authorized to receive documents at Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP, 333 South Hope Street, 16th Floor, Los Angeles, California 90071 with delivery fees fully provided for and addressed to the following:

DOCKET UNIT

Send the original signed document plus the required 12 copies to the address below:

CALIFORNIA ENERGY COMMISSION
DOCKET UNIT, MS-4
Attn: Docket No. 01-AFC-1
1516 Ninth Street
Sacramento, CA 95814-5512

* * * *

In addition to the document served to the Commission Docket Unit, I also served individual copies of the same document by First Class Mail enclosing the document in a sealed envelope on the following parties. I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, 16th Floor, Los Angeles, California 90071 with delivery fees fully provided for and addressed to the following:

Angeles, California 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing with the United States Postal Service such envelope at Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP, 333 South Hope Street, 16th Floor, Los Angeles, California 90071.

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I declare under penalty of perjury that the foregoing is true and correct. Executed this
____ day of September, 2001 at Los Angeles, California.

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Heather Thai